

1992 ANNUAL REPORT

CONSUMER PROTECTION UNIT

MISSION STATEMENT

In the past two years the Legislature has enacted Idaho's Telephone Solicitation and Pay-Per-Telephone Acts and modernized the Idaho Consumer Protection Act in order to protect both consumers and businesses against unfair or deceptive acts in trade and commerce, and to provide efficient and economical procedures to secure such protection. The Consumer Protection Unit seeks to fulfill this charge through education, mediation, and enforcement efforts.

HISTORY

The Consumer Protection Unit was first established in 1973 when the Idaho Legislature enacted the Idaho Consumer Protection Act. At that time it was a full division within the Attorney General's Office. The Unit was disbanded by the Legislature in the early 1980s, and was started up again in 1987 with a staff of one. Because of the growing demand for its services and the benefits it provides to Idaho consumers and businesses, the Unit now has grown to a staff of nine people.

APPLICABLE LAWS

The Consumer Protection Unit enforces and operates pursuant to the Idaho Consumer Protection Act, codified at Title 48, Chapter 6, Idaho Code, the Idaho Consumer Protection Rules, codified at IDAPA 04.01 et seq., the Idaho Telephone Solicitation Act, codified at Title 48, Chapter 10, Idaho Code, the Idaho Pay-Per-Telephone Call Act, codified at Title 48, Chapter 11, Idaho Code, the Idaho Telephone Solicitation and Pay-Per-Telephone Call Services Rules, codified at IDAPA 04.02 et seq., and the Idaho Antitrust Act, codified at Title 48, Chapter 1, Idaho Code.

The Unit also enforces several provisions of other statutes, including Idaho Code Section 18-3101 of the Idaho Anti-Pyramid and Chain Distribution Act, Idaho Code Section 26-2505 of the Idaho Loan Brokers Act, and Idaho Code Section 67-1401, with respect to nonprofit corporations. Finally, the Unit is often asked for information and advice concerning other laws, such as Idaho's Lemon Law Act, codified at Title 48, Chapter 9, Idaho Code, and Idaho's Landlord/Tenant and Mobile Home Park Acts, codified, respectively, at Titles 6 and 55, Chapters 3 and 20, Idaho Code.

STAFFING

There are two deputy attorneys general, three investigators/paralegals, three consumer specialists, and one secretary.

MEASURES OF GROWTH AND SUCCESS

The Consumer Protection Unit continues to experience astronomical growth in the number of complaints received, telephone contacts responded to, consumer restitution obtained, civil penalties, fees, and costs recovered, and enforcement actions taken. The growth is a measure of the Unit's success in serving the public and enforcing the applicable Acts and Rules. The following chart displays this growth and success:

Activity	1987	1988	1989	1990	1991	1992	% over 1991	% over 1990
Complains/Inquires	1088	1428	1243	1614	2525	3367	33%	108%
Telephone Calls	1963	5112	8731	12000	*	*	N/A	N/A
Dollars Claimed Lost	\$713,967	\$416,599	\$735,731	\$680,172	\$489,467	\$831,437	70%	22%
Dollars recovered by CPU	\$2,395	\$14,054	\$22,201	\$130,469	\$263,435	\$394,376	36%	175%
Civil Penalties, Fees, and Costs recovered	\$0	\$0	\$ 0	\$ 500.00	\$56,500.00	\$127,845	126%	25,469%
Enforcement Actions **	0	4	6	9	62	66	6%	633%

* Because of volume, this number is no longer tracked.

** Includes lawsuits filed, and Assurances of Voluntary Compliance, Judgments, and Orders Compelling Response and Granting Injunctive and Other Relief obtained.

The complaint categories that received the largest number of complaints, and the number of written complaints logged in 1992, are

Telemarketing: 708

Multi-level Marketing: 328

Automobile Advertising, Sales, and Repairs: 294

Mail Orders: 217

Gas Prices: 73

Living Trusts: 71

Home Construction: 52

Note: The number of written complaints and inquiries about telemarketing in 1992 increased 466% over 1991

1992 SUCCESS STORIES

This year the Consumer Protection Unit served more people, secured more restitution for consumers, engaged in more enforcement actions, and educated more people about consumer protection laws than ever before.

Enforcement

The Consumer Protection Unit settled its lawsuit against GMAC Mortgage. The Unit contended in its lawsuit, filed with eleven other states, that GMAC violated state and federal laws by keeping excess payments made by homeowners in their escrow accounts. The settlement resulted in refunds and reduced mortgage premiums estimated at \$110,000 for hundreds of Idaho GMAC mortgage holders as well as cessation of the practices in dispute.

The Consumer Protection Unit also settled its lawsuit against Sandoz Pharmaceuticals Corporation and Caremark, Inc. The lawsuit, filed with 33 other states, charged the companies with violating both federal and state antitrust law through their restrictive system of sale and distribution of the drug Clozaril and related testing services. The settlement resulted in the cessation of the tying arrangement, \$60,000 in consumer restitution, and over \$17,000 in fees and costs.

The Consumer Protection Unit obtained two judgments in excess of \$50,000 against Sierra Pacific Marketing, Inc., a Las Vegas, Nevada telemarketer. In addition the judgments prohibit the company from doing any further telemarketing in the state.

Over sixty other actions were brought, and judgments, orders and assurances of voluntary compliance obtained against telemarketers, automobile dealers, home repair businesses, and prize promoters. The total amount of penalties, fees, restitution, and expenses recovered from these actions exceed \$250,000.

The Unit has also participated in many multi-state actions with other state attorneys general's offices against various businesses for violations of Idaho's Consumer Protection Act and federal and state antitrust laws. The actions have or will result in tens of thousands of dollars in consumer restitution for Idaho residents and businesses and significant protection against further unlawful conduct.

These multi-state actions include lawsuits and settlements against Trans Union and Equifax, Inc. for alleged unlawful credit reporting practices; Mitsubishi, for alleged unlawful antitrust practices; General Electric, for alleged advertising misrepresentations, and Allied Marketing, Inc., doing business as Sweepstakes Clearinghouse, for an alleged false, deceptive, and misleading prize promotion/pay-per-telephone call offer.

Education

The Consumer Protection Unit has prepared a three-month television and radio campaign, set to begin in January 1993, aimed at helping consumers avoid becoming victims of consumer fraud. The program is being aired with the cooperation of the Idaho Broadcasters Association.

The Consumer Protection Unit is the lead state in developing with other states a comprehensive package of television, radio, and print spots on consumer protection issues. The purpose of this multi-state effort is to pool resources, experience, and expertise in jointly producing these materials.

The Consumer Protection Unit prepared and disseminated several thousand folders with consumer information targeted to Idaho senior citizens. The Unit used consumer protection account moneys to do this because senior citizens in Idaho, as well as the rest of the country, are prime targets for unscrupulous businesses and people.

The Consumer Protection Unit prepared and distributed to every automobile dealer in the state the Attorney General's Guidelines for Motor Vehicle Advertising in Idaho. The Guidelines have received national recognition and praise for their quality and usefulness. The goal of the Guidelines and the intent in focusing on automobile sales and advertising is to reduce in 1993 the number of complaints received. For the past few years, the number of automobile sales and advertising complaints has ranked very high in Idaho.

The Consumer Protection Unit prepared and released 35 news releases. Unit staff visited schools, business groups, law enforcement training seminars, and senior citizens groups, throughout the state, to give talks and discuss consumer protection issues. Unit staff also did scores of television and radio interviews about consumer related issues.

The Consumer Protection Unit is proud to report that all of its consumer education efforts--all television and radio spots produced, all pamphlets, brochures, and tip sheets written and published, and all speeches, travel, and training seminars attended--were done so at no taxpayer expense; monies from the consumer protection account--into which all civil penalties, fees, and costs are deposited--were used to fund all of these activities.

RULES AND LEGISLATION

The Consumer Protection Unit was successful in having the Legislature adopt and the Governor sign all four pieces of legislation it prepared and sponsored.

Two bills--the Idaho Telephone Solicitation Act and the Idaho Pay-Per-Telephone Call Act--are major pieces of legislation, designed to attack telemarketing and 900 telephone fraud. The two other bills which the Unit prepared and sponsored strengthen consumer's rights with respect to loan brokers and hearing aid dealers.

The Consumer Protection Unit, working with many charitable groups throughout Idaho, has prepared for the next legislative session a proposed Charitable Solicitations Act. The purpose of the proposed Act is to combat charitable solicitation fraud. The Unit has also prepared a second bill that makes technical amendments to the Idaho Consumer Protection Act.

The Consumer Protection Unit prepared and the Attorney General adopted comprehensive amendments to the Idaho Consumer Protection Rules. Highlights of these amendments include new Rules dealing with automobile sales and advertising, unordered goods and merchandise, loan brokers, and pyramid and chain and distribution schemes.

Under the authority of Idaho's Telephone Solicitation and Pay-Per-Telephone Call Acts, the Consumer Protection Unit also prepared the Idaho Telephone Solicitation and Pay-Per-Telephone Call Service Rules. On July 1, 1992, the Attorney General adopted these Rules.

Both regulatory proceedings were done at no taxpayer expense. Instead, costs of adopting both sets of Rules, including public hearings around the state, legal notices, and publication of the rules, were paid for out of the consumer protection account.